

1 [Business and Tax Regulations Code - Tax Exclusion for Low-Income Housing Partnerships;
2 Commercial Vacancy Tax Exemption]

3 **Ordinance amending the Business and Tax Regulations Code to exclude from gross**
4 **receipts tax the gross receipts of low-income housing partnerships received from the**
5 **lease of residential real estate beginning with the 2026 tax year; suspend the business**
6 **registration certificate and fee requirements for those partnerships beginning with the**
7 **registration year commencing April 1, 2026; exempt the City from the commercial**
8 **vacancy tax retroactive to January 1, 2025; and exempt persons holding property to be**
9 **used for City-sponsored affordable housing projects from the commercial vacancy tax**
10 **retroactive to January 1, 2022, and refund commercial vacancy taxes paid by exempt**
11 **persons.**

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13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

20 Be it ordained by the People of the City and County of San Francisco:

21 Section 1. Article 6 of the Business and Tax Regulations Code is hereby amended by
22 revising Section 6.8-1, to read as follows:

23 **SEC. 6.8-1. CITY, PUBLIC ENTITY, AND CONSTITUTIONAL EXEMPTIONS.**

24 (a) Nothing in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A-1, 21, 28, 29, 29A , 30, 32, or
25 33 shall be construed as imposing a tax upon:

- (1) The City, ~~except for the Vacaney Tax (Article 29)~~;

1 (2) The State of California, or any county, municipal corporation, district, or
2 other political subdivision of the State, except where any constitutional or statutory immunity
3 from taxation is waived or is not applicable;

4 (3) The United States, or any of its agencies or subdivisions, except where any
5 constitutional or statutory immunity from taxation is waived or is not applicable; or

6 (4) Any person exempted from the particular tax by the Constitution or statutes
7 of the United States or the Constitution or statutes of the State of California.

8 * * * *

9
10 Section 2. Article 12 of the Business and Tax Regulations Code is hereby amended by
11 revising Section 853, to read as follows:

12 **SEC. 853. REGISTRATION CERTIFICATE – REQUIRED.**

13 * * * *

14 (f) (1) Beginning with the registration year commencing April 1, 2026, the requirements to
15 obtain a registration certificate and pay a fee under this Article 12 are suspended for Qualified
16 Lessors. For purposes of this subsection (f), the term “Qualified Lessor” has the same meaning as that
17 term is defined in Section 952.3(h) of Article 12-A-1 of the Business and Tax Regulations Code.

18 (2) The suspension in this subsection (f) shall apply only with respect to the Qualified
19 Lessor’s separate filing and payment obligations for its lease of residential real estate units. The
20 suspension shall not apply to any business activity related to any other space, either within the same
21 building or other buildings, that is not residential real estate.

22 (3) The Board of Supervisors may at any time, by ordinance, terminate the suspension
23 in this subsection (f) without such termination constituting a tax increase under Article XIIC of the
24 California Constitution.

1 Section 3. Article 12-A-1 of the Business and Tax Regulations Code is hereby
2 amended by revising Section 952.3, to read as follows:

3 **SEC. 952.3. GROSS RECEIPTS.**

4 * * * *

5 (h) (1) For tax years beginning on or after January 1, 2026, “gross receipts” shall not
6 include amounts received by a Qualified Lessor. For purposes of this subsection (h), the term
7 “Qualified Lessor” means a lessor of residential real estate, as the term residential real estate is
8 described in Section 954.1(c) of this Article 12-A-1, if the lessor of residential real estate is a limited
9 partnership in which the managing general partner is an eligible nonprofit corporation or eligible
10 limited liability company, meeting all of the requirements of Section 214(g) of the California Revenue
11 and Taxation Code.

12 (2) The exclusion in this subsection (h) shall apply only with respect to the Qualified
13 Lessor’s amounts received for its lease of residential real estate. The exclusion shall not apply to any
14 amounts received from any business activity related to any other space, either within the same building
15 or other buildings, that is not residential real estate.

16 (3) For purposes of the exclusion in Section 952.3(d) of this Article 12-A-1 providing
17 that “any gross receipts of a pass-through entity which is subject to the gross receipts tax shall not also
18 constitute gross receipts of any owner of that entity,” a Qualified Lessor shall be deemed to be subject
19 to the gross receipts tax notwithstanding the exclusion in this Section 952.3(h).

20 (4) The Board of Supervisors may at any time, by ordinance, terminate the exclusion in
21 this subsection (h) without such termination constituting a tax increase under Article XIII C of the
22 California Constitution.

1 Section 4. Article 29 of the Business and Tax Regulations Code is hereby amended by
2 revising Section 2905, to read as follows:

3 **SEC. 2905. EXEMPTIONS AND EXCLUSIONS.**

4 (a) For only so long as and to the extent that the City is prohibited from imposing the
5 Vacancy Tax, any person upon whom the City is prohibited under the Constitution or laws of
6 the State of California or the Constitution or laws of the United States from imposing the
7 Vacancy Tax shall be exempt from the Vacancy Tax.

8 * * * *

9 (c) The City shall ~~not~~ be exempt from the Vacancy Tax.

10 * * * *

11 (e) For tax years beginning on or after January 1, 2022, persons that own commercial property
12 subject to a recorded restrictive covenant enforced by the Mayor’s Office of Housing and Community
13 Development (“MOHCD”) for the purpose of developing affordable housing thereon shall be exempt
14 from the Vacancy Tax with respect to that commercial property. If a person that qualifies for the
15 exemption under this subsection (e) pays or has paid the Vacancy Tax, the Tax Collector shall refund
16 or cause to be refunded the amount of that tax and any penalties, without interest, upon request of that
17 person. Such request for refund must be accompanied by a copy of the recorded restrictive covenant
18 and a certification by MOHCD. Any refund request under this subsection must be filed in writing on a
19 form prescribed by the Tax Collector within the later of (1) one year of payment of the tax or penalty,
20 as applicable, or (2) June 30, 2026.

21
22 Section 5. Effective Date; Retroactivity.

23 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
24 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
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1 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
2 Mayor’s veto of the ordinance.

3 (b) Upon the effective date of this ordinance, this ordinance shall be (1) retroactive to
4 January 1, 2025, insofar as it relates to the amendments to Section 6.8-1 of Article 6 of the
5 Business and Tax Regulations Code and Section 2905(c) of Article 29 of that Code, and (2)
6 retroactive to January 1, 2022, insofar as it relates to the addition of Section 2905(e) of
7 Article 29 of the Business and Tax Regulations Code.

8
9 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the “Note” that appears under
14 the official title of the ordinance.

15
16 Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word
17 of this ordinance, or any application thereof to any person or circumstance, is held to be
18 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
19 shall not affect the validity of the remaining portions or applications of the ordinance. The
20 Board of Supervisors hereby declares that it would have passed this ordinance and each and
21 every section, subsection, sentence, clause, phrase, and word not declared invalid or
22 unconstitutional without regard to whether any other portion of this ordinance or application
23 thereof would be subsequently declared invalid or unconstitutional.

1 Section 8. Supermajority Vote Required. In accordance with Section 2811 of
2 Article 28 of the Business and Tax Regulations Code and Section 2909 of Article 29 of the
3 Business and Tax Regulations Code, passage of this ordinance by the Board of Supervisors
4 requires an affirmative vote of two-thirds of the Board of Supervisors.

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6 APPROVED AS TO FORM:
7 DAVID CHIU, City Attorney

8 By: /s/
9 KERNE H. O. MATSUBARA
Deputy City Attorney

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